

Unofficial Engrossed Legislative Changes 2008

Chapter 120C.

Lobbying.

Article 1.

General Provisions.

§§ 120C-1 through 120C-99: Reserved for future codification purposes.

§ 120C-100. Definitions.

- (a) As used in this Article, the following terms mean:
- (1) Commission. – The State Ethics Commission under Chapter 138A of the General Statutes.
 - (2) Designated individual. – A legislator, legislative employee, or public servant.
 - (3) Executive action. – The preparation, research, drafting, development, consideration, modification, amendment, adoption, approval, tabling, postponement, defeat, or rejection of a policy, guideline, request for proposal, procedure, regulation, or rule by a public servant purporting to act in an official capacity. This term does not include any of the following:
 - a. Present, prior, or possible proceedings of a contested case hearing under Chapter 150B of the General Statutes, of a judicial nature, or of a quasi-judicial nature.
 - b. A public servant's communication with a person, or another person on that person's behalf, with respect to any of the following:
 1. Applying for a permit, license, determination of eligibility, or certification.
 2. Making an inquiry about or asserting a benefit, claim, right, obligation, duty, entitlement, payment, or penalty.
 3. Making an inquiry about or responding to a request for proposal made under Chapter 143 of the General Statutes.
 4. Ratemaking.
 - c. Internal administrative functions, including those functions exempted from the definition of "rule" in G.S. 150B-2(8a).
 - d. Ministerial functions.
 - e. A public servant's communication with a person or another person on that person's behalf with respect to public comments made at an open meeting, or submitted as written comment, on a proposed executive action in response to a request for public comment, provided the identity of the person on whose behalf the

comments are made is disclosed as part of the public participation, and no reportable expenditure is made.

- (4) In session. – One of the following:
 - a. The General Assembly is in extra session from the date the General Assembly convenes until the General Assembly:
 - 1. Adjourns sine die.
 - 2. Recesses or adjourns for more than 10 days.
 - b. The General Assembly is in regular session from the date set by law or resolution that the General Assembly convenes until the General Assembly:
 - 1. Adjourns sine die.
 - 2. Recesses or adjourns for more than 10 days.
- (5) Legislative action. – The preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter, whether or not the matter is identified by an official title, general title, or other specific reference, by a legislator or legislative employee acting or purporting to act in an official capacity. It also includes the consideration of any bill by the Governor for the Governor's approval or veto under Article II, Section 22(1) of the Constitution or for the Governor to allow the bill to become law under Article II, Section 22(7) of the Constitution.
- (6) Legislative employee. – Employees and officers of the General Assembly, consultants and counsel to committees of either house of the General Assembly or of legislative commissions, who are paid by State funds, but not including legislators, members of the Council of State, nonsupervisory employees of the Administrative Division's Facility Maintenance and Food Services staff, or pages.
- (7) Legislator. – As defined in G.S. 138A-3 and G.S. 120C-104.
- (8) Liaison personnel. – Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that individual's job description, include lobbying legislators or legislative employees.
- (9) Lobbying. – Any of the following:
 - a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that designated individual's immediate family.
 - b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that designated individual's immediate family with

the intention of influencing current or future legislative or executive action, or both.

The term "lobbying" does not include communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both.

- (10) Lobbyist. – An individual who engages in lobbying and meets any of the following criteria:
- a. Repealed by Session Laws 2007-348, s. 8(a), effective October 10, 2007.
 - b. Represents another person or governmental unit, but is not directly employed by that person or governmental unit, and receives payment for services. For the purposes of this sub-subdivision, the term 'payment for services' shall not include reimbursement of actual travel and subsistence.
 - c. Contracts for economic consideration for the purpose of lobbying.
 - d. Is employed by a person and a significant part of that employee's duties include lobbying. In no case shall an employee be considered a lobbyist if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)a. of this section or if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying as defined in subdivision (9)b. of this section.

The term "lobbyist" shall not include individuals who are specifically exempted from this Chapter by G.S. 120C-700 or registered as liaison personnel under Article 5 of this Chapter.

- (11) Lobbyist principal and principal. – The person or governmental unit on whose behalf the lobbyist lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist principal is the association or other organization, not the individual members of the association or other organization.

The term "lobbyist principal" shall not include those designating registered liaison personnel under Article 5 of this Chapter.

- (11k) Payment for services. – Any money, thing of value, or economic benefit paid to a lobbyist for the purpose of lobbying other than reimbursement of actual travel, administrative expenses, or subsistence.

- (12) Reportable expenditure. – Any of the following that directly or indirectly is made to, at the request of, for the benefit of, or on the behalf of a designated individual or that individual's immediate family member:
 - a. Any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge, or thing of value greater than ten dollars (\$10.00) per designated individual per single calendar day.
 - b. A contract, agreement, promise, or other obligation whether or not legally enforceable.
- (13) Solicitation of others. – A solicitation of members of the public to communicate directly with or contact one or more designated individuals for the purpose of influencing or attempting to influence legislative or executive action to further the solicitor's position on that legislative or executive action, when that request is made by any of the following methods:
 - a. A broadcast, cable, or satellite transmission.
 - b. An e-mail communication or a Web site posting.
 - c. A communication delivered by print media as defined in G.S. 163-278.38Z.
 - d. A letter or other written communication delivered by mail or by comparable delivery service.
 - e. Telephone.
 - f. A communication at a conference, meeting, or similar event.

The term "solicitation of others" does not include communications made by a person or by the person's agent to that person's stockholders, employees, board members, officers, members, subscribers, or other recipients who have affirmatively assented to receive the person's regular publications or notices.

(b) Except as otherwise defined in this section, the definitions in Article 1 of Chapter 138A of the General Statutes apply in this Chapter. (1933, c. 11, s. 1; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2001-424, s. 6.10(b); 2005-456, s. 1.; 2006-201, s. 18; 2007-347, s. 6(b); 2007-348, ss. 7, 8(a), (b); 2008-213, ss. 4-8, 90.)

§ 120C-101. Rules and forms.

(a) The Commission shall adopt any rules or definitions necessary to interpret the provisions of this Chapter and adopt any rules necessary to administer the provisions of this Chapter, except for Articles 2, 4 and 8 of this Chapter. The Secretary of State shall adopt any rules, orders, and forms as are necessary to administer the provisions of Articles 2, 4 and 8 of this Chapter. The Secretary of State may appoint a council to advise the Secretary in adopting rules under this section.

(b) With respect to the forms adopted under subsection (a) of this section, the Secretary of State shall adopt rules to protect from disclosure all confidential information

under Chapter 132 of the General Statutes related to economic development initiatives or to industrial or business recruitment activities. The information shall remain confidential until the State, a unit of local government, or the business has announced a commitment by the business to expand or locate a specific project in this State or a final decision not to do so, and the business has communicated that commitment or decision to the State or local government agency involved with the project.

(c) In adopting rules under this Chapter, the Commission is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the Commission shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the Commission shall:

- (1) Publish the proposed rules in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
- (3) Notify those on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

A rule adopted under this subsection becomes effective the first day of the month following the month the final rule is submitted to the Codifier of Rules for entry into the North Carolina Administrative Code.

(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written objections from 10 or more persons under that statute. Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant to this Chapter objected to by the Commission under this subsection shall not become effective until an act of the General Assembly approving the rule has become law. If the General Assembly does not approve a rule under this subsection by the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Rules Review Commission approves the rule, the permanent rule shall not become effective and any temporary rule associated with the permanent rule expires. If the General Assembly fails to approve a rule by the day of adjournment, the Secretary of State may initiate rulemaking for a new permanent rule, including by the adoption of a temporary rule. (1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 9; 2008-213, s. 9.)

§ 120C-102. Request for advice.

(a) At the request of any person, State agency, or governmental unit affected by this Chapter, the Commission shall render advice on specific questions involving the meaning and application of this Chapter and that person's, State agency's, or any

governmental unit's compliance therewith. Requests for advice and advice rendered in response to those requests shall relate to real or reasonably anticipated fact settings or circumstances.

(a1) A request for a formal opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. An individual, State agency, or governmental unit who relies upon the advice provided to that individual, State agency, or governmental unit on a specific matter addressed by a requested formal advisory opinion shall be immune from all of the following:

- (1) Investigation by the Commission.
- (2) Any adverse action by the employing entity.
- (3) Investigation by the Secretary of State.

(b) Staff to the Commission may issue advice, but not formal advisory opinions, under procedures adopted by the Commission.

(c) The Commission shall publish its formal advisory opinions within 30 days of issuance, edited as necessary to protect the identities of the individuals requesting opinions.

(d) Except as provided under subsections (c) and (d1) of this section, a request for advice, any advice provided by Commission staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or the Commission staff in connection with a request for advice are confidential. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(d1) Staff to the Commission may share all information and documents related to requests under subsection (a) and (a1) of this section with staff of the Office of the Secretary of State. The information and documents in the possession of the staff of the Office of the Secretary of State shall remain confidential and not public records. The Commission shall forward an unedited copy of each formal advisory opinion under this section to the Secretary of State at the time the formal advisory opinion is issued to the requestor, and the Secretary of State shall treat that unedited advisory opinion as confidential and not a public record.

(e) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of a formal advisory opinion. (2006-201, s. 18; 2007-348, s. 10; 2008-213, ss. 2(c), 90.)

§ 120C-103. Lobbying education program.

(a) The Commission shall develop and implement a lobbying education and awareness program designed to instill in all designated individuals, lobbyists, and lobbyists' principals a keen and continuing awareness of their obligations and sensitivity to situations that might result in real or potential violation of this Chapter or other related laws. The Commission shall make basic lobbying education and awareness presentations to all designated individuals upon their election, appointment, or hiring and shall offer periodic refresher presentations as the Commission deems appropriate. Every designated individual shall participate in a lobbying presentation approved by the Commission within six months of the designated individual's election, appointment, or hiring and shall attend refresher lobbying education presentations at least every two years thereafter in a manner the Commission deems appropriate. The Commission shall also make lobbying education and awareness programs available to lobbyists and lobbyists' principals. Upon request, the Commission shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for lobbying education.

(b) The Commission shall publish a newsletter containing summaries of the advisory opinions, policies, procedures, and interpretive bulletins as issued from time to time, but no less than once per year. The newsletter shall be distributed to all designated individuals, lobbyists, and lobbyists' principals. Publication under this subsection may be done electronically.

(c) The Commission shall assemble and maintain a collection of relevant State laws, rules, and regulations that set forth lobbying standards applicable to designated individuals. The collection of laws, rules, and regulations shall be made available electronically as resource material to designated individuals, lobbyists, and lobbyists' principals upon request. (2006-201, s. 18.)

§ 120C-104. Chapter applies to candidates for certain offices.

For purposes of this Chapter, the term "legislator" as defined in G.S. 120C-100(7) and the term "public servant" as defined in G.S. 138A-3(30)a. shall include an individual having filed a notice of candidacy for such office under G.S. 163-106 or Article 11 of Chapter 163 of the General Statutes or nominated under G.S. 163-114 or G.S. 163-98. (2006-201, s. 18; 2008-213, s. 12.)

§§ 120C-105 through 120C-199. Reserved for future codification purposes.

Article 2.

Registration.

§ 120C-200. Lobbyist registration procedure.

(a) A lobbyist shall file a separate registration statement for each principal the lobbyist represents with the Secretary of State before engaging in any lobbying. It shall be unlawful for an individual to lobby without registering within one business day of

engaging in any lobbying as defined in G.S. 120C-100(9) unless exempted by this Chapter.

(b) The form of the registration shall be prescribed by the Secretary of State and shall include the registrant's full name, firm, complete address, and telephone number; the registrant's place of business; the full name, complete address, and telephone number of each principal the lobbyist represents; and a general description of the matters on which the registrant expects to act as a lobbyist.

(c) Each lobbyist shall file an amended registration form with the Secretary of State no later than 10 business days after any change in the information supplied in the lobbyist's last registration under subsection (b) of this section. Each supplementary registration shall include a complete statement of the information that has changed.

(d) Each registration statement of a lobbyist required under this Chapter shall be effective from the date of filing until January 1 of the following year. The lobbyist shall file a new registration statement after that date, and the applicable fee shall be due and payable.

(e) Each lobbyist shall identify himself or herself as a lobbyist prior to engaging in lobbying communications or activities with a designated individual. The lobbyist shall also disclose the identity of the lobbyist principal connected to that lobbying communication or activity. (1933, c. 11, s. 2; 1973, c. 1451; 1975, c. 820, s. 1; 1983, c. 713, s. 51; 1991, c. 740, s. 1.1; 2004-203, s. 50(a); 2006-201, s. 18; 2008-213, ss. 13, 90.)

§ 120C-201. Lobbyist's registration fee.

(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars (\$100.00) is due and payable to the Secretary of State at the time of each lobbyist registration. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

(b) The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyists registering to represent persons who have been granted nonprofit status under 26 U.S.C. § 501(c)(3). (1975, c. 852, s. 1; 1983, c. 713, s. 50; 1991, c. 740, s. 1.1; 2002-126, s. 29A.33; 2005-456, s. 1; 2006-201, s. 18.)

§ 120C-202. Reserved for future codification purposes.

§ 120C-203. Reserved for future codification purposes.

§ 120C-204. Reserved for future codification purposes.

§ 120C-205. Reserved for future codification purposes.

§ 120C-206. Lobbyist principal's authorization.

(a) A written authorization signed by the lobbyist principal authorizing the lobbyist to represent the principal shall be filed with the Secretary of State within 10 business days after the lobbyist's registration.

(b) The form of the authorization shall be prescribed by the Secretary of State and shall include the lobbyist principal's full name, complete address, and telephone number, name and title of any official authorized to sign for the lobbyist principal, and the name of each lobbyist registered to represent that principal.

(c) An amended authorization shall be filed with the Secretary of State no later than 10 business days after any change in the information on the principal's authorization. Each supplementary authorization shall include a complete statement of the information that has changed. (1933, c. 11, s. 4; 1961, c. 1151; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2007-347, s. 4; 2008-213, s. 90.)

§ 120C-207. Lobbyist principal's fees.

(a) Except as provided for in subsection (b) of this section, a fee of one hundred dollars (\$100.00) is due and payable to the Secretary of State at the time the principal's first authorization statement is filed each calendar year for a lobbyist. Fees so collected shall be deposited in the General Fund of the State. The Secretary of State shall allow fees required under this section to be paid electronically but shall not require the fees to be paid electronically.

(b) The Secretary of State shall adopt rules providing for a waiver or reduction of the fees required by this section for lobbyist principals that have been granted nonprofit status under 26 U.S.C. § 501(c)(3). (1933, c. 11, s. 4; 1961, c. 1151; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 90.)

§ 120C-208. Reserved for future codification purposes.

§ 120C-209. Reserved for future codification purposes.

§ 120C-210. Reserved for future codification purposes.

§ 120C-211. Reserved for future codification purposes.

§ 120C-212. Reserved for future codification purposes.

§ 120C-213. Reserved for future codification purposes.

§ 120C-214. Reserved for future codification purposes.

§ 120C-215. Other persons required to register.

(a) A person not otherwise required to register under this Chapter shall register and report when the total expense incurred for solicitation of others exceeds three thousand dollars (\$3,000) during any 90-day period. Expenses incurred shall mean the costs of producing and transmitting the communication and, if the communication is

made at a conference, meeting, or similar event, the costs of planning, hosting, sponsoring, and attending the conference, meeting, or similar event.

(b) A person required to register and report under this section shall be referred to as a "solicitor" for purposes of this Chapter.

(c) No fee shall be charged for registering as a solicitor.

(d) For purposes of this section, "incur" means the point at which a binding obligation arises. (2006-201, s. 18; 2007-348, s. 11.)

§ 120C-216. Reserved for future codification purposes.

§ 120C-217. Reserved for future codification purposes.

§ 120C-218. Reserved for future codification purposes.

§ 120C-219. Reserved for future codification purposes.

§ 120C-220. Publication and availability of registrations.

(a) The Secretary of State shall make available as soon as practicable the registrations of the lobbyists and liaison personnel in an electronic, searchable format.

(b) The Secretary of State shall make available as soon as practicable the authorizations of the lobbyists' principals in an electronic, searchable format.

(c) The Secretary of State shall make available as soon as practicable the registrations of other persons required by this Chapter to file a registration in an electronic, searchable format.

(d) Within 20 days after the convening of each session of the General Assembly, the Secretary of State shall furnish each designated individual and the State Legislative Library a list of all persons who have registered as lobbyists and whom they represent. A supplemental list of lobbyists shall be furnished periodically every 20 days while the General Assembly is in session and every 60 days thereafter. For each special session of the General Assembly, a supplemental list of lobbyists shall be furnished to the State Legislative Library.

(e) All lists required by this section may be furnished electronically. (2006-201, s. 18; 2008-213, s. 15.)

§§ 120C-221 through 120C-299. Reserved for future codification purposes.

Article 3.

Prohibitions and Restrictions.

§ 120C-300. Contingency fees prohibited.

(a) No individual shall act as a lobbyist for payment for services that is dependent upon the result or outcome of any legislative or executive action.

(b) This section shall not apply to an individual doing business with the State who is engaged in sales with respect to that business with the State whose regular

remuneration agreement includes commissions based on those sales. For purposes of this subsection, the term 'regular remuneration' means any money, thing of value, or economic benefit conferred on or received by the individual in return for services rendered or to be rendered by that individual or another.

(c) Any payment for services to a lobbyist in violation of this section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund. (1933, c. 11, s. 3; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 16.)

§ 120C-301. Election influence prohibited.

(a) No person shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election.

(b) No lobbyist, lobbyist principal, or other person required to register under this Chapter shall attempt to influence the action of any designated individual by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election. (1933, c. 11, s. 3; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 90.)

§ 120C-302: Recodified as G.S. 163-278.13C, by Session Laws 2007-347, s. 5(a), effective August 9, 2007.

§ 120C-303. Gifts by lobbyists and lobbyist principals prohibited.

(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist principal may do any of the following:

- (1) Knowingly give a gift to a designated individual.
- (2) Knowingly give a gift with the intent that a designated individual be the ultimate recipient.

(b) Subsection (a) of this section shall not apply to gifts as described in G.S. 138A-32(e).

(c) The offering or giving of a gift in compliance with this Chapter without corrupt intent shall not constitute a violation of the statutes related to bribery under G.S. 14-217, 14-218, or 120-86, but shall be subject to civil fines under G.S. 120C-602(b).

(d) Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c).

(e) Gifts made to a nonpartisan state, regional, national, or international organization of which a public servant's agency is a member or a public servant is a member or participant of by virtue of that public servant's public position, or to an

affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c).

(2006-201, s. 18; 2007-348, s. 12(a), (b); 2008-213, ss. 17(a), 18-19, 90.)

§ 120C-304. Restrictions.

(a) No legislator or former legislator may register as a lobbyist under this Chapter:

(1) While in office.

(2) Before the later of the close of session as set forth in G.S. 120C-100(a)(4)b.1 in which the legislator served or six months after leaving office.

(b) No public servant or former public servant as defined in G.S. 138A-3(30)a. may register as a lobbyist while in office or within six months after leaving office.

(c) No public servant or former public servant as defined in G.S. 138A-3(30)c. may register as a lobbyist under this Chapter within six months after separation from employment as a public servant.

(d) No individual registered as a lobbyist under this Chapter shall serve as a treasurer as defined in G.S. 163-278.6(19) or an assistant campaign treasurer for a political committee for the election of a member of the General Assembly or a Constitutional officer of the State.

(e) A lobbyist shall not be eligible for appointment by a State official to, or service on, any body created under the laws of this State that has regulatory authority over the activities of a person or governmental unit that the lobbyist currently represents or has represented within 120 days after the expiration of the lobbyist's registration representing that person or governmental unit. Nothing herein shall be construed to prohibit appointment by any unit of local government.

(f) Any appointment or registration made in violation of this section shall be void. (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 13(a); 2008-213, ss. 20-21.)

§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.

No lobbyist or another acting on the lobbyist's behalf shall permit a designated individual, or that designated individual's immediate family member, to use the cash or credit of the lobbyist for the purpose of lobbying unless the lobbyist is in attendance at the time of the reportable expenditure. (2006-201, s. 18; 2008-213, s. 22.)

§§ 120C-306 through 120C-399. Reserved for future codification purposes.

Article 4.

Reporting.

§ 120C-400. Reporting of reportable expenditures.

(a) For purposes of this Chapter, all reportable expenditures made for the purpose of lobbying shall be reported, including the following:

- (1) Reportable expenditures benefiting or made on behalf of a designated individual in the regular course of that designated individual's employment.
- (1a) Reportable expenditures benefiting or made on behalf of a designated individual's immediate family member in the regular course of that immediate family member's employment.
- (2) Contractual arrangements or direct business relationships between a lobbyist or lobbyist principal and a designated individual, or that designated individual's immediate family member, in effect during the reporting period or the previous 12 months.
- (3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of business by the lobbyist principal or other employer.

(b) This section shall not apply to any reportable expenditure of cash, a cash equivalent, or a fixed asset made directly to a State agency that maintains an accounting of the reportable expenditure that is a public record. (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 14; 2008-213, ss. 23, 90.)

§ 120C-401. Reporting generally.

(a) Reports shall be filed whether or not reportable expenditures are made and shall be due 10 business days after the end of the reporting period.

(b) For reportable expenditures, each report shall set forth all of the following:

- (1) The fair market value or face value if shown.
- (2) The date of the reportable expenditure.
- (3) A description of the reportable expenditure.
- (4) The name and address of the payee or beneficiary.
- (5) The name of any designated individual or that designated individual's immediate family member connected with the reportable expenditure.

(b1) For purposes of subdivision (b)(5) of this section, when more than 15 designated individuals benefit from or request a reportable expenditure, no names of individuals need be reported provided that the report identifies the approximate number of designated individuals benefiting or requesting and the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of immediate family members of designated individuals who benefited from the reportable expenditure shall be listed separately.

(b2) For purposes of subdivision (b)(5) of this section, when the reportable expenditure is a gift given with the intent that a designated individual be the ultimate recipient and the lobbyist or lobbyist principal does not know the name or names of the designated individuals, the lobbyist or lobbyist principal shall report a description of the designated individuals and those designated individuals' immediate family members

connected with the reportable expenditure that clearly distinguishes its purpose or composition, and an approximate number, if known.

(c) Reportable expenditures shall be reported using the following categories:

- (1) Transportation and lodging.
- (2) Entertainment.
- (3) Food and beverages.
- (4) Meetings and events.
- (5) Gifts.
- (6) Other reportable expenditures.

(d) Each report shall be in the form prescribed by the Secretary of State, which may include electronic reports.

(e) When any report as required by this Article is not filed, the Secretary of State shall send a certified or registered letter advising the lobbyist, lobbyist principal, or other person required to report of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the report shall be delivered or posted by United States mail to the Secretary of State together with a late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2). Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section.

(f) Failure to file a required report in one of the manners prescribed in this section shall void any and all registrations of the lobbyist, lobbyist principal, or solicitor. No lobbyist, lobbyist principal, or solicitor may register or reregister until full compliance with this section has occurred.

(g) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(h) The Secretary of State may adopt rules to facilitate complete and timely disclosure of required reporting, including additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes. The Secretary of State shall not impose any penalties or late filing fees upon a lobbyist, lobbyist principal, or solicitor for subsequent failures to comply with the requirements of this section if the Secretary of State failed to provide the required notification under subsection (e) of this section.

(i) Any reportable expenditure promptly paid for at fair market value or promptly returned to a lobbyist or lobbyist principal by a designated individual or a member of the designated individual's immediate family within the reporting period shall not be reported under G.S. 120C-402 or G.S. 120C-403, and if reported, the repayment or return of the expenditure at any time shall be reported by the lobbyist and lobbyist principal on the next report due under this Article.

(j) The Secretary of State shall make available a report form that may be filed by a designated individual or a member of the designated individual's immediate family who promptly declines, returns, pays fair market value for, or donates a reportable expenditure in accordance with G.S. 138A-32(g). The Secretary of State shall index the filing of this form together with the lobbyist or lobbyist principal who gave the reportable expenditure.

(1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.9; 1999-338, s. 1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 15(a); 2008-213, ss. 24-25, 90.)

§ 120C-402. Lobbyist's reports.

(a) Each lobbyist shall file quarterly reports under oath with the Secretary of State with respect to each lobbyist principal.

(b) The report shall include all of the following for the reporting period:

- (1) All reportable expenditures made for the purpose of lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Reportable expenditures reimbursed by the lobbyist principal, or another person or governmental unit on the lobbyist principal's behalf.
- (4) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than ten dollars (\$10.00).

(c) In addition to the reports required by this section, each lobbyist incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report. The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly reportable expenditure report shall also be included in each quarterly report required by subsection (a) of this section. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.9; 1999-338, s. 1; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 41(b); 2008-213, ss. 27, 90.)

§ 120C-403. Lobbyist principal's reports.

(a) Each lobbyist principal shall file quarterly reports under oath with the Secretary of State with respect to each lobbyist principal.

(b) The report shall be filed whether or not reportable expenditures are made, shall be due 10 business days after the end of the reporting period, and shall include all of the following for the reporting period:

- (1) All reportable expenditures made for the purpose of lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) With respect to each lobbyist registered under G.S. 120C-206, payment for services paid to all lobbyists during the quarter. If a lobbyist is a full-time employee of the principal, or is paid by means of an annual fee or retainer, the principal shall estimate and report the portion of the salary, fee, or retainer that is reasonably allocated for the purpose of lobbying. A lobbyist principal may rely upon a statement by the lobbyist

estimating the portion of the salary, fee, or retainer that is reasonably allocated for the purpose of lobbying.

- (4) With respect to each lobbyist registered under G.S. 120C-206, reportable expenditures reimbursed or paid to lobbyists for lobbying that are not reported on the lobbyist's report, with an itemized description of those reportable expenditures.
- (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than two hundred dollars (\$200.00).

(c) In addition to the reports required by this section, each lobbyist principal incurring reportable expenditures in any month while the General Assembly is in session with respect to lobbying legislators and legislative employees shall file a monthly reportable expenditure report. The monthly reportable expenditure report shall contain information required by this section with respect to all lobbying of legislators and legislative employees, and is due within 10 business days after the end of the month. The information on the monthly report shall also be included in each quarterly report required by subsection (a) of this section. (1933, c. 11, s. 5; 1973, c. 108, s. 70; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1991 (Reg. Sess., 1992), c. 1030, s. 51.10; 1999-338, s. 2; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 41(c); 2008-213, ss. 29(a), 90.)

§ 120C-404. Solicitor's reports.

- (a) Each solicitor shall file quarterly reports under oath with the Secretary of State.
- (b) The report shall include all of the following:
 - (1) All reportable expenditures made for the purpose of lobbying during the reporting period.
 - (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000). (2006-201, s. 18.)

§ 120C-405. Report availability.

- (a) All reports filed under this Chapter shall be open to public inspection upon filing.
- (b) The Secretary of State shall coordinate with the State Board of Elections to create a searchable Web-based database of reports filed under this Chapter and reports filed under Subchapter VIII of Chapter 163 of the General Statutes. (2006-201, s. 18.)

§§ 120C-406 through 120C-499. Reserved for future codification purposes.

Article 5.

Liaison Personnel.

§ 120C-500. Liaison personnel.

(a) All agencies and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch shall designate liaison personnel to lobby for legislative action. This subsection shall not apply to units of local government, or a State agency or board with no staff.

(b) No State agency or constitutional officer of the State may contract with individuals who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17.

(c) No more than two individuals may be designated as liaison personnel for each agency and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch.

(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply to any office created under Article 60 of Chapter 7A of the General Statutes, so long as that office complies with subsection (a) of this section. (1933, c. 11, s. 7; 1975, c. 820, s. 1; 1977, c. 697; 1991, c. 740, s. 1.1; 1993, c. 553, s. 3; 2001-424, s. 6.10(a); 2005-456, s. 1; 2006-201, s. 18; 2007-347, s. 6(a); 2008-213, ss. 30-32.)

§ 120C-501. Applicability of Chapter on liaison personnel.

(a) Except as otherwise provided in this section, this Chapter shall not apply to liaison personnel.

(b) G.S. 120C-200 shall apply to liaison personnel. No registration fee shall be required for registration under this subsection.

(c) Liaison personnel designated under this Article shall file reports under G.S. 120C-402.

(d) G.S. 120C-303 shall apply to liaison personnel with respect to legislators and legislative employees.

(e) The Board of Governors of the University of North Carolina and its constituent institutions, or the liaison personnel designated by that board or the constituent institutions, shall not give, for the purpose of lobbying, athletic tickets to any designated individual, except for those who are described in G.S. 138A-3(30)j. or those who are students and receive tickets on the same basis as other students. (2001-424, s. 6.10(a); 2005-456, s. 1; 2006-201, s. 18; 2008-213, s. 33.)

§§ 120C-502 through 120C-599. Reserved for future codification purposes.

Article 6.

Violations and Enforcement.

§ 120C-600. Powers and duties of the Secretary of State.

(a) The Secretary of State shall perform systematic reviews of reports required to be filed under Articles 4 and 8 of this Chapter on a regular basis to assure complete and timely disclosure of reportable expenditures. The Secretary of State shall refer to the Commission any complaints of violations of this Chapter other than those related solely to Articles 2, 4, or 8 of this Chapter.

(b) The Secretary of State may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of Articles 2, 4, and 8 of this Chapter. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of Articles 2, 4, and 8 of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

(c) Complaints of violations of Articles 2, 4, and 8 of this Chapter, all other records accumulated in conjunction with the investigation of these complaints, and any records accumulated in the performance of a systematic review shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Secretary of State from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or systematic review shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization. (2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(a); 2008-213, s. 34.)

§ 120C-601. Powers and duties of the Commission.

(a) The Commission may investigate complaints of violations of this Chapter and shall refer complaints related solely to Articles 2, 4, or 8 of this Chapter to the Secretary of State.

(b) The Commission may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of this Chapter. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

(c) Complaints of violations of this Chapter and all other records accumulated in conjunction with the investigation of these complaints shall be considered confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Commission from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted

basis in the course of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization. (2006-201, s. 18; 2006-259, s. 43.5(a); 2008-213, s. 35.)

§ 120C-602. Punishment for violation.

(a) Whoever willfully violates any provision of Article 2 or Article 3 of this Chapter shall be guilty of a Class 1 misdemeanor, except as provided in those Articles. In addition, no lobbyist who is convicted of a violation of the provisions of this Chapter shall in any way act as a lobbyist for a period of two years from the date of conviction.

(b) In addition to the criminal penalties set forth in this section, the Secretary of State may levy civil fines for a violation of any provision of Articles 2, 4, or 8 of this Chapter up to five thousand dollars (\$5,000) per violation. In addition to the criminal penalties set forth in this section, the Commission may levy civil fines for a violation of any provision of this Chapter except Article 2, 4, or 8 of this Chapter up to five thousand dollars (\$5,000) per violation. (1933, c. 11, s. 8; 1975, c. 820, s. 1; 1991, c. 740, s. 1.1; 1993, c. 539, s. 914; 1994, Ex. Sess., c. 24, s. 14(c); 2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(a).)

§ 120C-603. Enforcement by district attorney and Attorney General.

(a) The Commission or the Secretary of State, as appropriate, may investigate complaints of violations of this Chapter and shall report apparent violations of this Chapter to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter.

(b) Complaints of violations of this Chapter involving the Commission or any member employee of the Commission shall be referred to the Attorney General for investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter. (1975, c. 820, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 112; 2005-456, s. 1; 2006-201, s. 18; 2006-259, s. 43.5(b); 2008-213, s. 36.)

§§ 120C-604 through 120C-699. Reserved for future codification purposes.

Article 7.

Exemptions.

§ 120C-700. Persons exempted from this Chapter.

Except as otherwise provided in Article 8, the provisions of this Chapter shall not be construed to apply to any of the following:

- (1) An individual solely engaged in expressing a personal opinion or stating facts or recommendations on legislative action or executive action to a designated individual and not acting as a lobbyist.
- (2) A person appearing before a committee, commission, board, council, or other collective body whose membership includes one or more designated individuals at the invitation or request of the committee or a member thereof and who does not act in any further activities as a lobbyist with respect to the legislative or executive action for which that person appeared.
- (3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when acting solely in connection with matters pertaining to the office and public duties, except for a person designated as liaison personnel under G.S. 120C-500. For purposes of this subdivision, an individual appointed as a county or city attorney under Part 7 of Article 5 of Chapter 153A of the General Statutes or Part 6 of Article 7 of Chapter 160A of the General Statutes, respectively, shall be considered an employee of the county or city.
- (4) A person performing professional services in drafting bills, or in advising and rendering opinions to clients, or to designated individuals on behalf of clients, as to the construction and effect of proposed or pending legislative or executive action where the professional services are not otherwise connected with the legislative or executive action.
- (5) A person who owns, publishes, or is an employee of any recognized news medium, while engaged in the acquisition and publication of news or news and commentary on behalf of that recognized news medium.
- (6) Designated individuals while acting in their official capacity.
- (7) A person responding to inquiries from a designated individual and who does not act in any further activities as a lobbyist in connection with that inquiry.
- (8) A person who is a political committee as defined in G.S. 163-278.6(14), that person's employee, or that person's contracted service provider. (1933, c. 11, s. 7; 1975, c. 820, s. 1; 1977, c. 697; 1991, c. 740, s. 1.1; 1993, c. 553, s. 3; 2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 16.)

§§ 120C-701 through 120C-799. Reserved for future codification purposes.

Article 8.

Miscellaneous.

§ 120C-800. Reportable expenditures made by persons exempted or not covered by this Chapter.

(a) If a designated individual accepts a reportable expenditure made for the purpose of lobbying with a total value of over two hundred dollars (\$200.00) per calendar quarter from a person or group of persons acting together, exempted or not otherwise covered by this Chapter, the person, or group of persons, making the reportable expenditure shall report the date, a description of the reportable expenditure, the name and address of the person, or group of persons, making the reportable expenditure, the name of the designated individual accepting the reportable expenditure, and the estimated fair market value, or face value if shown, of the reportable expenditure.

(b) If the person making the reportable expenditure in subsection (a) of this section is outside North Carolina, and the designated individual accepting the reportable expenditure is also outside North Carolina at the time the designated individual accepts the reportable expenditure, then the designated individual accepting the reportable expenditure shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with G.S. 138A-24(a)(2).

(c) If a designated individual accepts a scholarship related to that designated individual's public service or position valued over two hundred dollars (\$200.00) from a person, or group of persons, acting together, exempted or not covered by this Chapter, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the designated individual accepting the scholarship, and the estimated fair market value.

(d) If the person granting the scholarship in subsection (c) of this section is outside North Carolina, the designated individual accepting the scholarship shall be responsible for filing the report or reporting the information in the designated individual's statement of economic interest in accordance with G.S. 138A-24(a)(2).

(e) This section shall not apply to any of the following:

- (1) Lawful campaign contributions properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.
- (2) Any reportable expenditure from a designated individual's extended family member to a designated individual.
- (3) Reportable expenditures associated primarily with the designated individual's employment or that designated individual's immediate family member's employment.
- (4) Reportable expenditures, other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.
- (5) A thing of value that is paid for by the State.
- (6) A scholarship paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's

public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization.

(f) Within 10 business days after the end of the quarter in which the reportable expenditure was made, reports required by this section shall be filed with the Secretary of State in a manner prescribed by the Secretary of State, which may include electronic reports. If the designated individual is required to file a statement of economic interest under G.S. 138A-24, then that designated individual may opt to report any information required by this section in the statement of economic interest.

(g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid to attend a conference, meeting, or other similar event. For purposes of this section only, the term "person" shall include all persons as defined in G.S. 138A-3(27) and all governmental units as defined in G.S. 138A-3(15d). (2005-456, s. 1; 2006-201, s. 18; 2007-348, s. 17; 2008-213, ss. 37, 38(a), 39.)

§§ 120C-801 through 120C-899. Reserved for future codification purposes.